

HOUSE BILL REPORT

HB 1223

As Reported by House Committee On:
Financial Institutions & Insurance

Title: An act relating to underwriting medical malpractice coverage.

Brief Description: Underwriting medical malpractice coverage.

Sponsors: Representatives Schual-Berke, Cody, Lantz, Fromhold, Simpson, P. Sullivan, Morrell, Williams, Dickerson, Linville, Clibborn, Kagi and Ormsby.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/1/06, 2/2/06 [DPS].

Brief Summary of Substitute Bill

- Defines "underwriting" as the process of selecting, rejecting, or pricing a risk.
- Prevents a medical malpractice insurer from taking an underwriting action against an insured solely because the insured inquired about the nature or scope of the policy, notified the insurer about a potential claim, or had a claim closed with no payment.
- Requires a medical malpractice insurer that takes an underwriting action to provide written notice to the insured describing the significant risk factors that led to the underwriting action.
- Requires the Insurance Commissioner to adopt rules that define the components of a risk profile.
- Requires insurers to provide at least 90 days notice of cancellation or nonrenewal of medical malpractice liability insurance policies.
- Requires insurers to provide an insured with the actual reason for the cancellation or nonrenewal of medical malpractice liability insurance policies and identify the significant risk factors that led to the insurer's decision.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 11 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking

Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, O'Brien, Santos, Serben, Simpson, Strow and Williams.

Staff: Jon Hedegard (786-7127).

Background:

The Office of the Insurance Commissioner (OIC) is responsible for the licensing and regulation of insurance companies doing business in this state. This includes insurers offering coverage for medical malpractice. The forms and rates of medical malpractice policies are "use and file." After issuing any policy, an insurer must file the forms and rates with the OIC within 30 days.

Current law does not require insurers, including medical malpractice insurers, to file underwriting standards.

Under current law, rates and forms are subject to public disclosure when the filing becomes effective. Actuarial formulas, statistics, and assumptions submitted in support of the filing are not subject to public disclosure.

With certain exceptions, state insurance law requires insurance policies to be renewable. An insurer is exempt from this requirement if the insurer provides the insured with written notice that it proposes to refuse to renew the insurance policy. Generally, the cancellation notice must be actually delivered or mailed to the insured no fewer than 45 days before the effective date of the cancellation. Shorter notice periods are specified for cancellation based on nonpayment of premiums (10 days) and for cancellation of fire insurance policies under certain circumstances (five days). The written notice must state the actual reason for cancellation of the insurance policy.

Summary of Substitute Bill:

A medical malpractice insurer may consider the following factors only in connection with other substantive factors:

- an insured inquired about scope or nature of coverage under a medical malpractice policy;
- an insured notified the insurer of an incident that may be covered under a medical malpractice policy but the incident does not result in a claim; and
- a claim was closed without payment.

If a medical malpractice insurer raises an insured's premium or reduces coverage due to the insured's risk profile, the insurer must provide written notice, in clear and simple language that describes the significant risk factors that led to the underwriting action.

The Insurance Commissioner must adopt rules that define the components of a risk profile.

The notice to a policyholder is lengthened from 45 to 90 days when a medical malpractice insurer cancels or nonrenews a policy for reasons other than nonpayment of premiums.

If a medical malpractice insurer cancels or nonrenews a policy, the notice provided to a policyholder must include the insurer's actual reason for the action and identify the significant risk factors that led to the insurer's decision.

The act applies to insurance policies issued or renewed on or after January 1, 2007.

Substitute Bill Compared to Original Bill:

Definition of "claimant" is added. Definition of "adverse action" is removed. A provision is added requiring that the insurer must provide the insured with written notice describing the significant risk factors that led to the underwriting action. A requirement is added providing that the OIC must adopt rules that define the components of a risk profile that leads to the requirement of a notice. Filing provisions are removed. The notice to a policyholder is lengthened from 45 to 90 days when a medical malpractice insurer cancels or nonrenews a policy for reasons other than nonpayment of premiums. An insurer must provide the true and actual reason and significant risk factors associated with a cancellation or non-renewal to a policyholder. A provision is added applying the act to insurance policies issued or renewed on or after January 1, 2007.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The proposed substitute is a considerable improvement over the previous bill and existing law. The proposed substitute gives medical malpractice policyholders more time to shop if they are cancelled or nonrenewed. That is particularly important for people in this particular insurance marketplace. The bill also provides more information to policyholders so they understand why the insurer is taking the action. Most insurers do considerable review in underwriting these policies, they are likely to know the reason why an applicant may have been nonrenewed or cancelled. It is important for that policyholder or applicant to know it as well.

Testimony Against: None.

Persons Testifying: Beth Berendt, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.